

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Wendell Dwayne O'Neal,

Civil No. 12-2549 (DWF/JJG)

Plaintiff,

v.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

City of New Brighton, Hughes & Costello  
Law Firm, Unknown Vehicle Owner, and  
Dustin Bengtson,

Defendants.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Jeanne J. Graham dated March 1, 2013. No objections have been filed to that Report and Recommendation in the time period permitted. The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference. Based upon the Report and Recommendation of the Magistrate Judge and upon all of the files, records, and proceedings herein, the Court now makes and enters the following:

**ORDER**

1. Magistrate Judge Jeanne J. Graham's March 1, 2013 Report and Recommendation (Doc. No. [56]) is **ADOPTED**.
2. Defendant Hughes & Costello's Motion to Dismiss (Doc. No. [27]) is **GRANTED**.

3. Defendants City of New Brighton and Dustin Bengtson's Motion to Dismiss (Doc. No. [30]) is **GRANTED**.

4. Plaintiff's Motion for Leave to File a Second Amended Complaint and for Voluntary Dismissal of Claims Against Defendant Grosshans (Doc. No. [34]) is **DENIED** as to leave to file a second amended complaint and **DENIED AS MOOT** as to voluntary dismissal of claims against Defendant Grosshans.

5. Because Plaintiff did not file proof of service of process on Unknown Vehicle Owner by the end of the fourteen-day period allowed for objections to the Report and Recommendation, all claims against Unknown Vehicle Owner are **DISMISSED WITHOUT PREJUDICE**.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: March 20, 2013

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge